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May 13, 2019

MAY 16 2019

**VIA CERTIFIED MAIL**

Ryan Byrd, Operations Manager  
Elder Creek Transfer Recovery  
8642 Elder Creek Road  
Sacramento, CA 95828

Tony Cincotta, General Manager  
Elder Creek Transfer Recovery  
8642 Elder Creek Road  
Sacramento, CA 95828

CT Corporation System, Agent for Service  
of Process for Republic Services, Inc.  
818 West Seventh Street, Suite 930  
Los Angeles, CA 90017

Nathan Cabbil, Chief Executive Officer  
Republic Services, Inc.  
18500 North Allied Way  
Phoenix, AZ 85054

**Re: NOTICE OF VIOLATIONS AND INTENT TO FILE SUIT UNDER THE  
FEDERAL WATER POLLUTION CONTROL ACT ("CLEAN WATER ACT")  
(33 U.S.C. §§ 1251 *et seq.*)**

Dear Ryan Byrd, Tony Cincotta, and Nathan Cabbil:

This firm represents California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Clean Water Act ("the Act") occurring at Republic Services, Inc.'s Elder Creek Transfer & Recovery facility located at 8642 Elder Creek Road, in Sacramento, California (the "Facility"). This letter is being sent to you as the responsible owners, officers and/or operators of the Facility, or as the registered agent for this entity. Unless otherwise noted, Republic Services, Inc., Ryan Byrd, Tony Cincotta, and Nathan Cabbil shall hereinafter be collectively referred to as "Republic Services." The purpose of this letter is to provide Republic Services with notice of the violations of the Industrial General Permit occurring at the Facility, including, but not limited to, discharges of polluted storm water associated with industrial activities from the Facility into local surface waters.

Republic Services is in ongoing violation of the substantive and procedural requirements of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001 State Water Resources Control Board Water Quality Order No. 14-57-DWQ ("General Permit" or "Permit").<sup>1</sup> Prior to July 1, 2015, Republic Services' storm water discharges were regulated under Water Quality Order No. 91-13-DWQ, as amended by Water Quality Orders 92-12-DWQ and 97-03-DWQ.

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<sup>1</sup> Republic Services submitted a Notice of Intent ("NOI") to comply with the General Permit for the Guerneville Facility on or about February 9, 2018. The Facility's Waste Discharge Identification number is 5S34I016593.

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On July 1, 2015, the 2015 General Permit went into effect, superseding the 1997 General Permit that was operative between 1997 and June 30, 2015. The 2015 General Permit includes many of the same fundamental requirements and implements many of the same statutory requirements as the 1997 General Permit. Violation of both the 1997 and 2015 General Permit provisions is enforceable under the law. 2015 General Permit, Finding A.6.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Act subjects Republic Services to a penalty for all violations occurring during the period commencing five years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of up to \$37,500 per day per violation for all Clean Water Act violations occurring after January 12, 2009, and \$53,484 per day per violation for all violations that occurred after November 2, 2015. In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)) permits prevailing parties to recover costs and fees, including attorneys' fees.

The Clean Water Act requires that sixty (60) days prior to the initiation of a citizen-enforcement action under Section 505(a) of the Act (33 U.S.C. § 1365(a)), a citizen enforcer must give notice of its intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, and the Chief Administrative Officer of the water pollution control agency for the State in which the violations occur. *See* 40 C.F.R. § 135.2. As required by the Act, this letter provides statutory notice of the violations that have occurred, and continue to occur, at the Facility. 40 C.F.R. § 135.3(a). At the expiration of sixty (60) days from the date of this letter, CSPA intends to file suit under Section 505(a) of the Act in federal court against Republic Services for violations of the Clean Water Act and the Permit.

**I. Background**

**A. California Sportfishing Protection Alliance**

CSPA is a non-profit corporation dedicated to the preservation, protection and defense of the environment, wildlife and natural resources of California waters, including the waters into which Republic Services discharges polluted storm water. Members of CSPA enjoy the waters that the Facility discharges into, including the Sacramento River. Members of CSPA use and enjoy these waters for their fishing, estuarine habitat and the rare, threatened and endangered species it supports, the wildlife habitat, marine habitat, and other designated beneficial uses. The discharge of pollutants from the Facility impairs each of these uses. Discharges of polluted storm water from the Facility are ongoing and continuous. Thus, the interests of CSPA's members have been, are being, and will continue to be adversely affected by Republic Services' failure to comply with the Clean Water Act and the General Permit.

**B. The Clean Water Act**

Congress enacted the CWA in 1972 in order to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251. The Act prohibits

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the discharge of pollutants into United States waters except as authorized by the statute. 33 U.S.C. § 1311; *San Francisco Baykeeper, Inc. v. Tosco Corp.*, 309 F.3d 1153, 1156 (9th Cir. 2002). The Act is administered largely through the NPDES permit program. 33 U.S.C. § 1342. In 1987, the Act was amended to establish a framework for regulating storm water discharges through the NPDES system. Water Quality Act of 1987, Pub. L. 100-4, § 405, 101 Stat. 7, 69 (1987) (codified at 33 U.S.C. § 1342(p)); *see also Env'tl. Def. Ctr., Inc. v. EPA*, 344 F.3d 832, 840-41 (9th Cir. 2003) (describing the problem of storm water runoff and summarizing the Clean Water Act's permitting scheme). The discharge of pollutants without an NPDES permit, or in violation of a permit, is illegal. *Ecological Rights Found. v. Pacific Lumber Co.*, 230 F.3d 1141, 1145 (9th Cir. 2000).

Much of the responsibility for administering the NPDES permitting system has been delegated to the states. *See* 33 U.S.C. § 1342(b); *see also* Cal. Water Code § 13370 (expressing California's intent to implement its own NPDES permit program). The CWA authorizes states with approved NPDES permit programs to regulate industrial storm water discharges through individual permits issued to dischargers and/or through the issuance of a single, statewide general permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(b). Pursuant to Section 402 of the Act, the Administrator of EPA has authorized California's State Board to issue individual and general NPDES permits in California. 33 U.S.C. § 1342.

**C. California's General Permit for Storm Water Discharges Associated with Industrial Activities**

Between 1997 and June 30, 2015, the General Permit in effect was Order No. 97-03-DWQ, which CSPA refers to herein as the "1997 General Permit." On April 1, 2014, pursuant to Order No. 2014-0057-DWQ the General Permit was reissued, including many of the same fundamental terms as the prior permit. This permit became effective July 1, 2015. For purposes of this notice letter, CSPA refers to the reissued permit as the "2015 General Permit." Accordingly, Republic Services is liable for violations of the 1997 General Permit and ongoing violations of the 2015 General Permit, and civil penalties and injunctive relief are available remedies. *See Illinois v. Outboard Marine, Inc.*, 680 F.2d 473, 480-81 (7th Cir. 1982) (relief granted for violations of an expired permit); *Sierra Club v. Aluminum Co. of Am.*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act's legislative intent and public policy favor allowing penalties for violations of an expired permit); *Pub. Interest Research Group of N.J. v. Carter-Wallace, Inc.*, 684 F. Supp. 115, 121-22 (D.N.J. 1988) ("Limitations of an expired permit, when those limitations have been transferred unchanged to the newly issued permit, may be viewed as currently in effect").

Facilities discharging, or having the potential to discharge, storm water associated with industrial activities that have not obtained an individual NPDES permit must apply for coverage under the General Permit by filing a Notice of Intent to Comply ("NOI"). 1997 General Permit, Provision E.1; 2015 General Permit, Standard Condition XXI.A. Facilities must file their NOIs before the initiation of industrial operations. *Id.* Facilities must strictly comply with all of the terms and conditions of the General Permit; a violation of the General Permit is a violation of the CWA.

The General Permit contains three primary and interrelated categories of requirements: (1) discharge prohibitions, effluent limitations, and receiving water limitations; (2) Storm Water Pollution Prevention Plan ("SWPPP") requirements; and (3) self-monitoring and reporting requirements.

#### **D. Republic Services' Elder Creek Facility**

Information available to CSPA indicates that Republic Services' industrial activities at the approximately 19.26-acre Facility include, but are not limited to: the sorting of municipal solid waste, hauling, cleaning, and maintenance of equipment and machinery, and other activities related to the transfer and recovery processes. The industrial activities at the Facility fall under Standard Industrial Classification ("SIC") Codes 5093 and 4212 ("Scrap and Waste Materials" and "Local Trucking Without Storage," respectively).

Republic Services collects and discharges storm water associated with industrial activities at the Facility through at least four discharge points into the City of Sacramento storm water drainage system, from which the water ultimately flows into the Sacramento River and the Sacramento-San Joaquin River Delta ("the Delta"). The Delta and its tributaries are waters of the United States within the meaning of the Clean Water Act.

The areas of industrial activity at the Facility are sources of pollutants. The General Permit requires Republic Services to analyze storm water samples for TSS, pH, and Oil and Grease. 1997 General Permit, Section B.5.c.i; 2015 General Permit, Section XI.B.6. Facilities under SIC Code 5093 must also analyze storm water samples for Iron ("Fe"), Lead ("Pb"), Aluminum ("Al"), Zinc ("Zn") and Chemical Oxygen Demand ("COD"). 1997 General Permit, Tables 1-2; 2015 General Permit, Tables 1-2.

### **II. Republic Services' Violations of the Act and Permit**

Based on its review of available public documents, CSPA is informed and believes that Republic Services is in ongoing violation of both the substantive and procedural requirements of the CWA and the General Permit. These violations are ongoing and continuous. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Republic Services is subject to penalties for violations of the Act since May 13, 2014.

#### **A. Republic Services Discharges Storm Water Containing Pollutants in Violation of the General Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations**

Republic Services' storm water sampling results provide conclusive evidence of Republic Services' failure to comply with the General Permit's discharge prohibitions, effluent limitations, and receiving water limitations. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

### **1. Discharge Prohibitions**

The General Permit prohibits all discharges of storm water associated with industrial activities to waters of the United States except as specifically authorized by the General Permit or another NPDES permit. 2015 General Permit, Section III.A. The General Permit further prohibits the discharge of liquids or materials other than storm water to waters of the United States unless authorized by another NPDES permit. 2015 General Permit, Section III.B.

The General Permit requires that storm water discharges and authorized non-storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance. 1997 General Permit, Discharge Prohibition A.2; 2015 General Permit, Discharge Prohibition III.C. The General Permit also prohibits discharges that violate any discharge prohibition contained in the applicable Regional Water Board's Basin Plan or statewide water quality control plans and policies. 1997 General Permit, Receiving Water Limitation C.2; 2015 General Permit, Discharge Prohibition III.D.

### **2. Technology Based Effluent Limitations**

Dischargers are required to reduce or prevent pollutants in their storm water discharges through implementation of best available technology economically achievable ("BAT") for toxic and nonconventional pollutants and best conventional pollutant control technology ("BCT") for conventional pollutants. 1997 General Permit, Effluent Limitation B.3; 2015 General Permit, Effluent Limitation V.A. Conventional pollutants include Total Suspended Solids, Oil & Grease, pH, Biochemical Oxygen Demand and Fecal Coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. 40 C.F.R. §§ 401.15-16.

Under the General Permit, benchmark levels established by the EPA ("EPA benchmarks") serve as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite BAT and BCT. *Santa Monica Baykeeper v. Kramer Metals*, 619 F. Supp. 2d 914, 920, 923 (C.D. Cal 2009); 1997 General Permit, Effluent Limitations B.5-6; 2015 General Permit, Exceedance Response Action XII.A.

The following EPA benchmarks have been established for pollutants discharged by Republic Services: total suspended solids – 100 mg/L; oil & grease – 15.0 mg/L; iron – 1.0 mg/L; aluminum – 0.75 mg/L; zinc – 0.26 mg/L; lead – 0.262 mg/L; chemical oxygen demand – 120 mg/L; and, pH – 6.0-9.0 s.u.

### **3. Receiving Water Limitations**

Storm water discharges and authorized non-storm water discharges shall not adversely impact human health or the environment, and shall not cause or contribute to a violation of any water quality standards in any affected receiving water. 1997 General Permit, Receiving Water Limitations C.1, C.2; 2015 General Permit, Receiving Water Limitations VI.A, VI.B.

Dischargers are required to prepare and submit documentation to the Regional Board upon determination that storm water discharges are in violation of the General Permit's Receiving Water Limitations. 1997 General Permit, p. VII; 2015 General Permit, Special Condition XX.B. The documentation must describe changes the discharger will make to its current storm water Best Management Practices ("BMPs") in order to prevent or reduce any pollutant in its storm water discharges that is causing or contributing to an exceedance of water quality standards. Id.

The *Water Quality Control Plan for the Central Valley Region* (Revised April 2016) ("Basin Plan") also sets forth water quality standards and prohibitions applicable to Republic Services' storm water discharges. The Basin Plan identifies present and potential beneficial uses for the Sacramento River, which include municipal and domestic water supply, hydropower generation, agricultural supply, industrial service supply, navigation, wildlife habitat, warm freshwater habitat, cold freshwater habitat, warm and cold spawning, and contact and non-contact water recreation.

#### 4. Republic Services' Storm Water Sample Results

The following discharges of pollutants from the Facility have violated the discharge prohibitions, effluent limitations, and receiving water limitations of the Permit:

a. **Discharge of Storm Water Containing Total Suspended Solids (TSS) at Concentrations in Excess of Applicable EPA Benchmark Value**

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)
2/25/2019	SWC	TSS	320	100
12/24/2018	SWC	TSS	400	100
2/26/2018	SWC	TSS	260	100
2/26/2018	NWC	TSS	120	100
1/5/2018	SWC	TSS	340	100
1/5/2018	NWC	TSS	230	100

b. **Discharge of Storm Water Containing Zinc (Zn) at Concentrations in Excess of Applicable EPA Benchmark Value**

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)
2/25/2019	SWC	Zn	0.36	0.26
12/24/2018	SWC	Zn	0.38	0.26
2/26/2018	SWC	Zn	0.38	0.26
1/5/2018	SWC	Zn	0.32	0.26

c. Discharge of Storm Water Containing Iron (Fe) at  
Concentrations in Excess of Applicable EPA Benchmark Value

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)
3/20/2019	SWC	Fe	2.4	1.0
2/25/2019	SWC	Fe	9.6	1.0
2/25/2019	NWC	Fe	2.2	1.0
12/24/2018	SWC	Fe	8.6	1.0
12/24/2018	NWC	Fe	3.4	1.0
2/26/2018	SWC	Fe	5.1	1.0
2/26/2018	NWC	Fe	4.6	1.0
1/5/2018	SWC	Fe	7.9	1.0
1/5/2018	NWC	Fe	5.2	1.0
2/3/2017	SEC	Fe	1.1	1.0
12/15/2016	NWC	Fe	1.6	1.0
12/15/2016	NEC	Fe	1.2	1.0
10/28/2016	NEC	Fe	1.2	1.0
3/11/2016	NWC	Fe	1.3	1.0
1/5/2016	NWC	Fe	1.1	1.0

d. Discharge of Storm Water Containing Aluminum (Al) at  
Concentrations in Excess of Applicable EPA Benchmark Value

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)
2/25/2019	SWC	Al	6.2	0.75
2/25/2019	NWC	Al	1.6	0.75
12/24/2018	SWC	Al	3.9	0.75
12/24/2018	NWC	Al	2.9	0.75
2/26/2018	SWC	Al	6.1	0.75
2/26/2018	NWC	Al	3.4	0.75
1/5/2018	SWC	Al	7.7	0.75
1/5/2018	NWC	Al	4.9	0.75
2/3/2017	SEC	Al	1.3	0.75
12/15/2016	NWC	Al	1.7	0.75
12/15/2016	NEC	Al	1.4	0.75
10/28/2016	NEC	Al	0.99	0.75
3/11/2016	NWC	Al	1.1	0.75
3/11/2016	SEC	Al	0.83	0.75
1/5/2016	SEC	Al	0.78	0.75
1/5/2016	NWC	Al	0.84	0.75

4/7/2015	NWC	Al	0.87	0.75
4/7/2015	NEC	Al	0.76	0.75
12/3/2014	NEC	Al	1	0.75
12/3/2014	SWC	Al	1.3	0.75
12/3/2014	NWC	Al	0.98	0.75
12/3/2014	SEC	Al	1.2	0.75

**e. Discharge of Storm Water Containing Chemical Oxygen Demand (COD) at Concentrations in Excess of Applicable EPA Benchmark Value**

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)
3/20/2019	SWC	COD	210	120
2/25/2019	SWC	COD	780	120
12/24/2018	SWC	COD	990	120
12/24/2018	NWC	COD	160	120
2/26/2018	SWC	COD	1100	120
2/26/2018	NWC	COD	240	120
1/5/2018	SWC	COD	710	120
1/5/2018	NWC	COD	670	120
10/28/2016	SEC	COD	140	120

**f. Discharge of Storm Water Containing Oil & Grease (O&G) at Concentrations in Excess of Applicable EPA Benchmark Value**

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)
1/5/2018	SWC	O&G	26	15

**g. Discharge of Storm Water Containing Copper (Cu) at Concentrations in Excess of Applicable EPA Benchmark Value**

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)
2/25/2019	SWC	Cu	0.048	0.0332
1/5/2018	SWC	Cu	0.051	0.0332

**h. Republic Services' Sample Results Are Evidence of Violations of the General Permit**

Republic Services' sample results demonstrate violations of the General Permit's discharge prohibitions, technology based effluent limitations, and receiving water limitations set forth above. CSPA is informed and believes that Republic Services has known that its storm



water contains pollutants at levels exceeding General Permit standards since at least May 13, 2014.

CSPA alleges that such violations occur each time storm water discharges from the Facility. Attachment A hereto, sets forth the specific rain dates on which CSPA alleges that Republic Services has discharged storm water containing impermissible levels of TSS, Fe, Al, COD, Zn, Cu, and O&G in violation of the General Permit. 1997 General Permit, Discharge Prohibition A.2, Receiving Water Limitations C.1 and C.2; 2015 General Permit, Discharge Prohibitions III.C and III.D, Receiving Water Limitations VI.A, VI.B. Republic Services may have had other violations that can only be fully identified and documented once discovery and investigation have been completed. Hence, to the extent possible, CSPA includes such violations in this Notice and reserves the right to amend this Notice, if necessary, to include such further violations in future legal proceedings.

#### **5. Republic Services Has Failed to Implement BAT and BCT**

Dischargers must implement BMPs that fulfill the BAT/BCT requirements of the CWA and the General Permit to reduce or prevent discharges of pollutants in their storm water discharges. 1997 General Permit, Effluent Limitation B.3; 2015 General Permit, Effluent Limitation V.A. To meet the BAT/BCT standard, dischargers must implement minimum BMPs and any advanced BMPs set forth in the General Permit's SWPPP Requirements provisions where necessary to reduce or prevent pollutants in discharges. *See* 1997 General Permit, Sections A.8.a-b; 2015 General Permit, Sections X.H.1-2.

Republic Services has failed to implement the minimum BMPs required by the General Permit, including: good housekeeping requirements; preventive maintenance requirements; spill and leak prevention and response requirements; material handling and waste management requirements; erosion and sediment controls; employee training and quality assurance; and record keeping. Permit, Section X.H.1(a-g). Republic Services has further failed to implement advanced BMPs necessary to reduce or prevent discharges of pollutants in its storm water sufficient to meet the BAT/BCT standards, including: exposure minimization BMPs; containment and discharge reduction BMPs; treatment control BMPs; or other advanced BMPs necessary to comply with the General Permit's effluent limitations. 1997 General Permit, Section A.8.b; 2015 General Permit, Sections X.H.2.

Each day that Republic Services has failed to develop and implement BAT and BCT at the Facility in violation of the General Permit is a separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). Republic Services has been in violation of the BAT and BCT requirements at the Facility every day since at least May 13, 2014.

#### **6. Republic Services Has Failed to Implement an Adequate Monitoring Implementation Plan**

The General Permit requires dischargers to implement a Monitoring Implementation Plan. 2015 General Permit, Section X.I. As part of their monitoring plan, dischargers must

identify all storm water discharge locations. 2015 General Permit, Section X.I.2.a. Dischargers must then conduct monthly visual observations of each drainage area, as well as visual observations during discharge sampling events. 2015 General Permit, Section XI.A.1 and 2.

Dischargers must collect and analyze storm water samples from two (2) storm events within the first half of each reporting year (July 1 to December 31) and two (2) storm events during the second half of each reporting year (January 1 to June 3). 2015 General Permit, Section XI.B. Section XI.B requires dischargers to sample and analyze during the wet season for basic parameters such as pH, total suspended solids ("TSS") and oil and grease ("O&G"), certain industry-specific parameters set forth in Table 2 of the General Permit, and other pollutants likely to be in the storm water discharged from the facility based on the pollutant source assessment. 2015 General Permit, Section XI.B.6. Dischargers must submit all sampling and analytical results via SMARTS within thirty (30) days of obtaining all results for each sampling event. 2015 General Permit Section XI.B.11.

Republic Services has failed to develop and implement an adequate Monitoring Implementation Plan. These failures include: using analytical test methods with method detection limits higher than existing approved analytical test methods to analyze samples of storm water; failing to collect samples from all discharge points during each sampling event; and, failing to collect the required number of samples during each reporting period.

Each day that Republic Services has failed to develop and implement an adequate Monitoring Implementation Plan is a separate and distinct violation of the Act and Permit. Republic Services has been in violation of the Monitoring Implementation Plan requirements every day since at least May 13, 2014.

**7. Republic Services Has Failed to Develop and Implement an Adequate Storm Water Pollution Prevention Plan**

The General Permit requires dischargers to develop and implement a site-specific SWPPP. 1997 General Permit, Section A.1; 2015 General Permit, Section X.A. The SWPPP must include, among other elements: (1) the facility name and contact information; (2) a site map; (3) a list of industrial materials; (4) a description of potential pollution sources; (5) an assessment of potential pollutant sources; (6) minimum BMPs; (7) advanced BMPs, if applicable; (8) a monitoring implementation plan; (9) annual comprehensive facility compliance evaluation; and (10) the date that the SWPPP was initially prepared and the date of each SWPPP amendment, if applicable. *See id.*

Dischargers must revise their SWPPP whenever necessary and certify and submit via the Regional Board's Storm Water Multiple Application and Report Tracking System ("SMARTS") their SWPPP within 30 days whenever the SWPPP contains significant revisions(s); and, certify and submit via SMARTS for any non-significant revisions not more than once every three (3) months in the reporting year. 2015 General Permit, Section X.B; see also 1997 General permit, Section A.

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CSPA's investigation indicates that Republic Services has been operating with an inadequately developed or implemented SWPPP in violation of General Permit requirements. Republic Services has further failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary, resulting in the Facility's numerous NAL exceedences across multiple pollutant parameters.

Each day Republic Services failed to develop and implement an adequate SWPPP is a violation of the General Permit. The SWPPP violations described above were at all times in violation of Section A of the 1997 General Permit, and Section X of the 2015 General Permit. Republic Services has been in violation of these requirements at the Facility every day since at least May 13, 2014.

### **8. Republic Services Has Failed to File Timely, True and Correct Reports**

Section XVI of the 2015 General Permit requires dischargers to submit an Annual Report by July 15th of each reporting year to the Regional Board. The Annual Report must be signed and certified by a discharger's Legally Responsible Person, or Duly Authorized Representative. 2015 General Permit, Sections XVI.A, XXI.K. The Annual Report must include a compliance checklist, certifying compliance with the General Permit and an explanation of any non-compliance. 2015 General Permit, Section XVI.B.

CSPA's investigations indicate that Republic Services has submitted incomplete Annual Reports and purported to comply with the Permit despite significant noncompliance at the Facility.

### **III. Persons Responsible for the Violations**

CSPA puts Republic Services on notice that they are the persons and entities responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CSPA puts Republic Services on formal notice that it intends to include those persons in this action.

### **IV. Name and Address of Noticing Parties**

The name, address and telephone number of each of the noticing parties is as follows:

Bill Jennings, Executive Director  
California Sportfishing Protection Alliance  
3536 Rainer Avenue  
Stockton, CA 95204  
(209) 464-5067

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**V. Counsel**

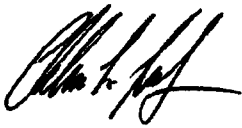
CSPA has retained legal counsel to represent it in this matter. Please direct all communications to:

Andrew L. Packard  
William N. Carlon  
Law Offices Of Andrew L. Packard  
245 Kentucky Street, Suite B3  
Petaluma, CA 94952  
(707) 782-4060  
andrew@packardlawoffices.com  
wncarlon@packardlawoffices.com

**VI. Conclusion**

CSPA believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the CWA against Republic Services and their agents for the above-referenced violations upon the expiration of the 60-day notice period. If you wish to pursue remedies in the absence of litigation, we suggest that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



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Andrew L. Packard  
Law Offices of Andrew L. Packard  
Counsel for CALIFORNIA SPORTFISHING  
PROTECTION ALLIANCE

**SERVICE LIST**

**VIA CERTIFIED MAIL**

Andrew Wheeler, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Mike Stoker, Acting Regional Administrator  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

William Barr, U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

Eileen Sobeck, Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812

Patrick Pulupa, Executive Officer  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670

**ATTACHMENT A**  
**Notice of Intent to File Suit, RSSC**  
**Significant Rain Events,\* May 13, 2014 – May 13, 2019**

9/25/2014	1/17/2016	1/3/2017	11/9/2017
10/31/2014	1/18/2016	1/4/2017	11/15/2017
11/13/2014	1/19/2016	1/7/2017	11/16/2017
11/20/2014	1/22/2016	1/8/2017	11/17/2017
11/22/2014	1/23/2016	1/9/2017	11/26/2017
11/28/2014	1/29/2016	1/10/2017	11/27/2017
11/29/2014	2/17/2016	1/11/2017	1/3/2018
11/30/2014	2/18/2016	1/12/2017	1/4/2018
12/2/2014	3/4/2016	1/18/2017	1/5/2018
12/3/2014	3/5/2016	1/19/2017	1/8/2018
12/5/2014	3/6/2016	1/20/2017	1/9/2018
12/11/2014	3/7/2016	1/21/2017	1/18/2018
12/12/2014	3/10/2016	1/22/2017	1/22/2018
12/15/2014	3/11/2016	2/2/2017	1/24/2018
12/16/2014	3/12/2016	2/3/2017	2/26/2018
12/19/2014	3/13/2016	2/5/2017	3/1/2018
2/6/2015	3/14/2016	2/6/2017	3/2/2018
2/8/2015	4/9/2016	2/7/2017	3/8/2018
3/11/2015	4/10/2016	2/8/2017	3/13/2018
4/5/2015	4/22/2016	2/9/2017	3/14/2018
4/7/2015	4/27/2016	2/16/2017	3/15/2018
4/24/2015	5/5/2016	2/17/2017	3/16/2018
4/25/2015	5/20/2016	2/19/2017	3/20/2018
5/7/2015	10/14/2016	2/20/2017	3/21/2018
10/17/2015	10/15/2016	2/21/2017	3/22/2018
11/1/2015	10/16/2016	3/4/2017	4/6/2018
11/2/2015	10/25/2016	3/20/2017	4/7/2018
11/8/2015	10/27/2016	3/21/2017	4/16/2018
11/9/2015	10/28/2016	3/22/2017	5/25/2018
11/15/2015	10/30/2016	3/24/2017	11/21/2018
12/3/2015	11/19/2016	4/6/2017	11/22/2018
12/13/2015	11/20/2016	4/7/2017	11/23/2018
12/18/2015	11/23/2016	4/8/2017	11/28/2018
12/19/2015	11/26/2016	4/12/2017	11/29/2018
12/21/2015	11/27/2016	4/13/2017	12/1/2018
1/4/2016	12/7/2016	4/16/2017	12/5/2018
1/5/2016	12/8/2016	4/17/2017	12/16/2018
1/6/2016	12/10/2016	4/19/2017	12/17/2018
1/13/2016	12/15/2016	6/8/2017	12/24/2018
1/15/2016	12/23/2016	11/4/2017	12/25/2018
1/16/2016	1/2/2017	11/8/2017	1/5/2019

\* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.

**ATTACHMENT A**  
**Notice of Intent to File Suit, RSSC**  
**Significant Rain Events,\* May 13, 2014 – May 13, 2019**

1/6/2019	2/26/2019
1/9/2019	2/27/2019
1/15/2019	3/2/2019
1/16/2019	3/5/2019
1/20/2019	3/6/2019
2/1/2019	3/19/2019
2/2/2019	3/20/2019
2/4/2019	3/22/2019
2/8/2019	3/23/2019
2/9/2019	3/25/2019
2/13/2019	3/27/2019
2/14/2019	4/2/2019
2/15/2019	4/5/2019
2/25/2019	
2/26/2019	
2/27/2019	
3/2/2019	
3/5/2019	
3/6/2019	
3/19/2019	
3/20/2019	
3/22/2019	
3/23/2019	
3/25/2019	
3/27/2019	
4/2/2019	
4/5/2019	
1/6/2019	
1/9/2019	
1/15/2019	
1/16/2019	
1/20/2019	
2/1/2019	
2/2/2019	
2/4/2019	
2/8/2019	
2/9/2019	
2/13/2019	
2/14/2019	
2/15/2019	
2/25/2019	

\* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.